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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,772	12/12/2003	Douglas Heintzman	AUS920030916US1	1755

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EXAMINER

TRAN, HENRY N

ART UNIT	PAPER NUMBER
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2629

MAIL DATE	DELIVERY MODE
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09/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/734,772

Applicant(s)

HEINTZMAN ET AL.

Examiner

Henry N. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment received 6/12/2007 has been fully considered in preparing this Office action. Applicants' amendments to the Drawings, the Specification, and the Claims, and the Remarks/Arguments have overcome the objections and rejections recited in the prior Office action mailed 12/19/06. Therefore, the objections and the rejections have been withdrawn. However, upon further consideration, new grounds of rejection are made in view of Davis patent (U.S. Patent No. 6,870,529) and Lin patent (U.S. Patent No. 6,618,045) as discussed follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-5, 7, 9-21 and 24- 29 are rejected under 35 U.S.C. 102(a) as being anticipated by Davis (U.S. Patent No. 6,870,529).

Regarding claim 11, Davis, Fig. 1, teaches an apparatus for modifying visual presentations based on ambient conditions and user preferences, comprising: an interface (54, 58 and 64), see Fig. 2; and a control unit (50 and 60) communicatively coupled to the interface and adapted to receive data indicative of light conditions proximate to a visual presentation device (28); authenticating a user identification, see col. 3, lines 4-5, and col. 4, lines 50-52; receiving data associated with at least one visibility profile associated with the authenticated user identification, see col. 4, lines 50-56; and determining visual data to be displayed by the visual

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presentation device based on data indicative of light conditions and the visibility profile, see Figs. 3 and 4, and col. 5, lines 8-13.

Regarding claims 12-18, Davis further teaches: (i) the control unit is adapted to determine an ambient light intensity, see col. 4, lines 52-53; (ii) the control unit is adapted to receive an indication of at least one deficiency in vision of a user and to compare for determining a desired brightness to display the determined visual data, see Figs. 2 and 3; and col. 2, lines 33-49; (iii) the visual presentation device is a laptop computer, see Fig. 1; and (iv) a detector (30) for acquiring the data indicative of light conditions proximate to the at least one visual presentation device, see Fig. 1. Claims 12-13 and 15-18 are dependent upon the base claim 11, and are therefore rejected on the same reasons set forth in claim 1, and by the reasons noted above.

Regarding claims 1-5, 7 and 9-10, which are method claims corresponding to the apparatus claims 11-18, and are therefore rejected on the same basis set forth in claims 11-18.

Regarding claim 19, Davis teaches an apparatus, comprising: means (50 and 60) for receiving data indicative of light conditions proximate to a visual presentation device (28), for authenticating a user identification, for receiving data associated with one visibility profile associated with the authenticated user identification, and for determining visual data to be displayed by the visual presentation device based on the received data indicative of light conditions and the data associated with the visibility profile, see the references recited in claim 11 above.

Regarding claims 20, 21 and 24, Davis, Fig. 1, teaches a computer system (10), comprising: one visual presentation device (28) adapted to display visual data; one storage device (74) adapted to store user profile database containing a plurality of users visibility profiles

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(78); one detector (30) for acquiring data indicative of light conditions proximate to the one visual presentation device; and a processor-based device (50 and 60) adapted to receive the data indicative of light conditions proximate to the visual presentation device, authenticate a user identification, receive data associated with one visibility profile associated with the authenticated user identification, and determine the visual data to be displayed by the visual presentation device based the received data indicative of light conditions and the received data associated with the at least one visibility profile; wherein the visual presentation device is a laptop computer, see references recited for claims 11 and 12-18 above.

Regarding claims 25-29, Davis does teach that the computer system (10) comprising a computer program product in a computer readable medium which when executed by a processor performs the claimed steps comprising: receiving the data indicative of light conditions proximate to the visual presentation device; authenticating a user identification; receiving data associated with at least one visibility profile associated with the authenticated user identification; determining visual data to be displayed by the visual presentation device based on the received data indicative of light conditions and the received data associated with the at least one visibility profile; receiving an indication of at least one deficiency in a user's vision; and determining a desired brightness, see Figs. 1-4, col. 4, line 7 to col. 5, line 33. 26.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 8 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (U.S. Patent No. 6,870,529) in view of Lin (U.S. Patent No. 6,618,045).

Davis teaches generally all except for the use of: a plurality of visual presentation devices, a plurality of detectors deployed proximate to the plurality of visual presentation devices, and the step of requesting the information to be displayed on the visual presentation device from a remote server. Lin does teach a method and an apparatus for modifying visual presentations based on environment lighting conditions and user references, wherein, a plurality of visual presentation devices (47 and 49), a plurality of detectors (74) deployed proximate to the plurality of visual presentation devices, and the step of requesting the information to be displayed on the visual presentation device from a remote server (50), see Figs. 1-3, col. 3, line 65 to col. 4, line 45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings as taught by Lin and Davis for producing the claimed invention because this would allow the remote control of the visual presentation devices settings/functions, see Lin, col. 4, lines 54-58. By this rationale, claims 6, 8 and 22-23 are rejected.

Response to Arguments

6. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new grounds of rejection discussed above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry N. Tran whose telephone number is 571-272-7760. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin H. Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Henry Tran/
Henry N Tran
Primary Examiner
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HT
8/29/07